

On June 14, 2001 appellant, then a 52-year-old contract specialist, filed an occupational disease claim alleging that she experienced an aggravation of a preexisting eye condition due to

conditions of her employment. The Office accepted the claim for aggravation of iritis in the right eye; recurrent iridocyclitis and subscapular polar cataract.

On September 22, 2003 appellant's treating physician, Dr. Alan Chandler, a Board-certified ophthalmologist, opined that appellant was totally disabled due to her ongoing ocular condition. Appellant stopped working on that date and began receiving compensation benefits for temporary total disability. On August 20, 2004 Dr. Chandler indicated that appellant remained disabled due to her work-related condition, as there was no treatment capable of fully controlling her eye disorder.

The Office referred appellant to Dr. Peter H. Goldmann, an ophthalmologist, for a second opinion evaluation. In a report dated March 18, 2005, he concluded that appellant had nearly normal visual acuity and well-controlled iridocyclitis that would cause little or no restriction on her ability to work. Dr. Goldmann opined that her underlying Reiter's disease was not caused or aggravated by visual activities, work related or otherwise. He concluded that appellant did not have a work-related disability.

In a report dated August 22, 2005, Dr. Chandler indicated that appellant experienced three to four flare-ups of uveitis per year, in one or both eyes, each of which rendered her incapacitated from visual work for three to four months. He opined that she should be considered fully disabled. Dr. Chandler notes reflected that appellant had suffered a flare-up of uveitis on March 18, 2005 and that she had been treated for severe dry eye on July 20 and August 22, 2005.

The Office determined that a conflict arose between the opinions of Drs. Goldmann and Chandler as to whether appellant had a work-related disability. The Office referred her, together with a statement of accepted facts and the medical record, to Dr. Richard W. Jacey, a Board-certified ophthalmologist, for an impartial medical examination. In a report dated January 26, 2006, Dr. Jacey stated that appellant suffered from intermittent iritis, which would be recurrent throughout her lifetime. On examination, he found visual acuity, with correction, to be 20/30 right eye (OD) and 20/25 left eye (OS). A slit lamp examination revealed pigmentary deposits on the anterior lens capsule and endothelial. The intraocular pressure was normal and there was no anterior chamber activity. A view of the fundus revealed an optic nerve that had a cup to disc ratio of 4 OD, 4.5 OS. Dr. Jacey found no lesions on the retina. He opined that appellant's condition was being treated successfully with steroid drops. Dr. Jacey noted that, when her iritis was active, appellant would have difficulty performing accurate visual tasks.

Appellant submitted a report dated February 12, 2006 from Dr. Chandler, who diagnosed chronic uveitis and cataracts in both eyes. Dr. Chandler stated that "the underlying medical condition leading to uveitis most likely is Reiter's syndrome." He noted that appellant's condition was present prior to her employment; was currently active; and was not expected to resolve. Dr. Chandler opined that, because appellant was unable to read or perform computer work for more than five minutes per hour without a worsening of her condition, she was disabled from any type of work involving vision, including reading and computer work on a part-time basis.

On March 24, 2006 the Office issued a notice of proposed termination of compensation benefits, based on Dr. Jacey's January 26, 2006 report. On June 5, 2006 it finalized its proposal, terminating compensation for wage loss effective July 9, 2006.

On June 22, 2006 appellant requested review of the written record. On December 4, 2006 an Office hearing representative found that the Office had failed to meet its burden of proof to terminate appellant's compensation. Stating that Dr. Jacey's opinion was not sufficiently rationalized or detailed to be accorded special weight, the representative reversed the June 5, 2006 decision, and remanded the case for further medical development.

On January 31, 2007 the Office referred appellant, together with a statement of accepted facts and the medical record, to Dr. Jason Chiapetta, a Board-certified ophthalmologist, for an impartial medical examination. Dr. Chiapetta reviewed the entire record and performed a thorough examination of appellant. In a report dated February 16, 2007, he opined that appellant was not disabled as a result of her accepted conditions. Dr. Chiapetta found that her visual acuity with proper correction measured 20/20 in both eyes, and that she had a clear anterior segment, with no evidence of active iritis or uveitis. He also found no evidence of residual damage from her recent flare-ups. Noting that appellant might be unable to read or perform computer work and might experience pain during the initial treatment of future flare-ups, Dr. Chiapetta opined that appellant's condition was not aggravated by computer work and recommended no work restrictions.

By decision dated March 22, 2007, the Office terminated appellant's monetary compensation benefits, effective March 23, 2007, based on Dr. Chiapetta's referee report.

On April 20, 2007 appellant requested review of the written record. In a narrative statement, appellant expressed her concern that future computer work would aggravate her eye condition.

Appellant submitted copies of medical reports documenting treatment for her eye condition. On February 12, 1981 Dr. C. Titus, a treating physician, stated that he had been treating appellant since age 26 for recurrent episodes of anterior uveitis. Reports from Dr. Robert S. Weinberg, a Board-certified ophthalmologist, for the period February 17, 1982 through September 28, 1995, reflect his treatment of appellant's underlying iritis, secondary to Reiter's syndrome. Reports from Dr. John Yook, a Board-certified ophthalmologist, dated October 27, 1994 through May 22, 2001, reflect that appellant was seen for ocular inflammation and was advised to avoid computer-concentrated work. The record contains reports from April 8, 1986 through January 2, 2001 from Dr. Herbert Wiesinger, a Board-certified ophthalmologist, who indicated that he had treated appellant for uveitis since 1974, and recommended that appellant be reassigned to work that was not computer oriented.

Appellant submitted copies of notes from Dr. Chandler for the period May 21, 2001 through March 27, 2007, which documented treatment for her ocular condition. In a narrative report dated April 7, 2006, Dr. Chandler objected to the Office's notice of proposed termination, reiterating his opinion that appellant's condition was aggravated by computer work. On May 8, 2006 Dr. Chandler again opined that appellant was disabled from work requiring visual tasks.

He predicted that, if appellant returned to vision-related work, her flare-ups of uveitis would become more frequent and severe, directly leading to a worsening of her overall condition and risking visual loss. Largely illegible notes, dated March 27, 2007, reflect that appellant was seen as a “[follow-up] to iritis.” Dr. Chandler’s assessment includes the term “iritis flare-up.”

By decision dated August 13, 2007, the Office hearing representative affirmed the March 22, 2007 decision. The weight of medical evidence rested with Dr. Chiapetta’s February 16, 2007 report, which confirmed that appellant was not totally disabled and had no residuals as a result of her accepted work condition. The representative modified the March 22, 2007 decision to reflect that the Office had not met its burden to terminate compensation in its June 5, 2006 decision and that appellant was entitled to retroactive compensation benefits from July 9, 2006 through March 22, 2007.

LEGAL PRECEDENT – ISSUE 1

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.¹ Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.² The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.³ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition, which requires further medical treatment.⁴

Section 8123(a) provides in pertinent part: “If there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.”⁵ In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.⁶

ANALYSIS -- ISSUE 1

The Board finds that the Office met its burden of proof to terminate appellant’s compensation benefits for her accepted eye conditions effective March 23, 2007.

¹ *Paul L. Stewart*, 54 ECAB 824 (2003).

² *Elsie L. Price*, 54 ECAB 734 (2003).

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

⁴ *Wiley Richey*, 49 ECAB 166 (1997); *Furman G. Peake*, *supra* note 3.

⁵ 5 U.S.C. § 8123(a).

⁶ *See Roger Dingess*, 47 ECAB 123 (1995); *Nathan L. Harrell*, 41 ECAB 401, 407 (1990).

The Office properly determined that a conflict existed in the medical opinion evidence as to whether appellant had any disability due to her accepted condition. Appellant's treating physician, Dr. Chandler, opined that she was disabled due to her accepted eye condition and that there was no treatment capable of fully controlling her disorder. The Office's second opinion physician opined that appellant was not disabled. Dr. Goldmann found that she had nearly normal visual acuity and well-controlled iridocyclitis that would cause little or no restrictions on her ability to work. He opined that her underlying Reiter's disease was not caused or aggravated by visual activities, work related or otherwise.

The Office initially referred appellant to Dr. Jacey for an impartial medical examination. In his brief January 26, 2006 report, he opined that appellant's condition was being treated successfully with steroid drops. Dr. Jacey noted that appellant suffered from intermittent iritis, which would be recurrent throughout her lifetime. Although he provided findings on examination, he did not provide a clear, rationalized opinion that appellant was no longer disabled as a result of her accepted condition. Accordingly, in his December 4, 2006 decision, the Office hearing representative found that Dr. Jacey's opinion was not sufficiently rationalized or detailed to be accorded special weight, and properly reversed the Office's June 5, 2006 decision terminating appellant's benefits and remanded the case for further medical development.

On remand, the Office referred appellant to Dr. Chiapetta for an impartial medical examination. He reviewed the entire record and statement of accepted facts, and performed a thorough examination of appellant. In his February 16, 2007 report, Dr. Chiapetta opined that appellant was not disabled as a result of her accepted conditions. He found that her visual acuity with proper correction measured 20/20 in both eyes, and that she had a clear anterior segment, with no evidence of active iritis or uveitis. Dr. Chiapetta also found no evidence of residual damage from her recent flare-ups. Noting that appellant might be unable to read or perform computer work, and might experience pain during the initial treatment of future flare-ups, he opined that appellant's condition was not aggravated by computer work and recommended no work restrictions.

The Board finds that the Office properly relied on Dr. Chiapetta's February 16, 2007 report in determining that appellant was not disabled as a result of her accepted employment injury. His opinion is sufficiently well rationalized and based upon a proper factual background. Dr. Chiapetta not only examined appellant thoroughly, but also reviewed all medical records. He reported accurate medical and employment histories. The Office properly accorded special weight to the impartial medical specialist's findings.⁷

Appellant did not submit any rationalized medical evidence to overcome the weight of Dr. Chiapetta's opinion or to create a new conflict. She submitted numerous reports from her treating physician, Dr. Chandler, who was on one side of the conflict. Reports from a physician who was on one side of a medical conflict that an impartial specialist resolved, are generally insufficient to overcome the weight accorded to the report of the impartial medical examiner, or

⁷ *Bryan O. Crane*, 56 ECAB 713 (2005).

to create a new conflict.⁸ Dr. Chandler summarily stated that appellant's condition was aggravated by computer work. However, he did not explain physiologically how the condition was affected by work-related computer activities, particularly in light of the fact that appellant had not been exposed to work factors since 2003. He opined that, because appellant was unable to read or perform computer work for more than five minutes per hour without a worsening of her condition, she was completely disabled from any type of work involving vision. He predicted that, if she returned to vision-related work, her flare-ups of uveitis would become more frequent and severe, directly leading to a worsening of her overall condition and risking visual loss. However, the Board has held that fear of future injury is not compensable.⁹ Dr. Chandler's concern that appellant may experience flare-ups of her condition in the future, does not establish that appellant is currently disabled. Moreover, he did not address Dr. Chiapetta's opinion that appellant's condition was not aggravated by computer work. For all of these reasons, Dr. Chandler's reports are of diminished probative value.

The remaining medical evidence submitted by appellant is also of diminished probative value. The reports written by Drs. Titus, Weinberg, Yook and Wiesinger between 1981 and 2001 do not address appellant's ability to work in 2007 and are, therefore, irrelevant. As the weight of the medical evidence establishes that appellant was no longer disabled as a result of her accepted eye condition, the Office properly terminated her compensation benefits.

LEGAL PRECEDENT -- ISSUE 2

After termination or modification of compensation benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation shifts to appellant.¹⁰ In order to prevail, appellant must establish by the weight of the reliable, probative and substantial evidence that she had an employment-related disability, which continued after termination of compensation benefits.

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between appellant's diagnosed condition and the implicated employment factors.¹¹ The opinion of the physician must be based on a complete factual and medical background of appellant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.¹²

⁸ See *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁹ See *Calvin E. King*, 51 ECAB 394 (2000).

¹⁰ See *Joseph A. Brown, Jr.*, 55 ECAB 542 (2004); *Virginia Davis-Banks*, 44 ECAB 389 (1993); *Joseph M. Campbell*, 34 ECAB 1389 (1983).

¹¹ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); see also *Ern Reynolds*, 45 ECAB 690, 695 (1994).

¹² *Bobbie F. Cowart*, 55 ECAB 746 (2004); *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS -- ISSUE 2

The only medical evidence of record dated subsequent to the termination of appellant's benefits on March 23, 2007 consists of a report of an interval examination and a prescription from Dr. Chandler, both dated March 27, 2007. Neither document provided an opinion as to whether appellant was disabled, or whether her current condition was causally related to the accepted eye condition. Therefore, they are of diminished probative value.¹³

Once the Office determined that termination of benefits was warranted, the burden shifted to appellant to establish that she had an employment-related disability that continued after the termination. The Board finds that appellant has failed to establish a *prima facie* case, in that she has not provided any rationalized medical opinion evidence establishing that she is currently disabled as a result of her accepted eye condition. Therefore, appellant has failed to meet her burden of proof.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits effective March 23, 2007. The Board further finds that appellant failed to meet her burden of proof to establish that she had any employment-related disability after March 23, 2007 causally related to her accepted eye condition.

¹³ *Ellen L. Noble*, 55 ECAB 530 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 13 and March 22, 2007 are affirmed.

Issued: March 11, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board